FEDERAL RESERVE SYSTEM

DOCKET NO. OP – 1472

Federal Reserve Policy on Payment System Risk; Procedures for Measuring Daylight Overdrafts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy Statement; request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is requesting comment on multiple changes to part II of the Federal Reserve Policy on Payment System Risk (PSR policy) related to the procedures for measuring balances intraday in institutions' accounts at the Federal Reserve Banks (Reserve Banks). The proposed changes relate to the Board's procedures for posting debit and credit entries to institutions' Federal Reserve accounts for automated clearing house (ACH) debit and commercial check transactions. Elsewhere in the **Federal Register** under Docket No. R-1473, the Board is also proposing necessary related changes to the Board's Regulation J regarding the timing of when paying banks settle for check transactions presented to them by the Reserve Banks. Additionally, in this notice, the Board is requesting comment on a set of principles for establishing future posting rules for the Reserve Banks' same-day ACH service. The Board is also requesting comment on a change in language in section II.G.3 of the PSR policy intended to clarify the Reserve Banks' administration of the policy for U.S. branches and agencies of foreign banking organizations.

DATES: Comments on the proposed changes must be received on or before [**insert date 60 days from publication date**].

ADDRESSES: You may submit comments, identified by Docket No. OP-1472 , by any of the following methods:

Agency Web Site: http://www.federalreserve.gov. Follow the instructions for submitting comments at http://www.federalreserve.gov/apps/foia/proposedregs.aspx

- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, D.C. 20551.

All public comments are available from the Board's web site at http://www.federalreserve.gov/apps/foia/proposedregs.aspx as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, NW) between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT:

Susan V. Foley, Senior Associate Director (202) 452-3596, Jeffrey Walker, Assistant Director (202) 721-4559, or Michelle D. Olivier, Financial Services Analyst (202) 452-2404, Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System; for users of Telecommunications Device for the Deaf

(TDD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:

I. Background

Technology and processing improvements have enabled payment systems and institutions to achieve significant efficiencies relative to twenty years ago when the Board's procedures for measuring institutions' intraday Federal Reserve account balances were established. Payment innovations have enabled both the introduction of new payment services and networks and the enhancement of legacy payment systems (such as checks and ACH). In particular, interbank check-processing has undergone a remarkable period of change, from few checks being exchanged electronically 10 years ago to virtually 100 percent today. The ACH system has also recently made progress in defining same-day clearing and settlement, and the Reserve Banks are now offering a same-day service on a limited basis.[1]

The Federal Reserve believes that ongoing innovation is necessary to ensure safe, efficient, and accessible payment systems in a changing economic environment. In support of this broad objective, the Board is currently working to align and modernize the procedures for measuring account balances associated with ACH and check transactions to reflect enhancements in technology and the Reserve Banks' current operations and processing times. The Board's PSR policy establishes the procedures, referred to as posting rules, for the settlement of debits and credits to institutions' Federal Reserve

[1] The Reserve Banks currently offer a same-day ACH service that allows institutions to opt-in to send and receive ACH credit or debit transactions during the processing day in addition to the overnight cycle. In section III of this notice, the Board proposes a set of principles for establishing future posting rules for the Reserve Banks' same-day ACH service. The Board does not contemplate that it would ordinarily request comment on changes to the ACH posting rules that are consistent with these principles.

accounts for different payment types.[2] The application of these posting rules determines an institution's intraday account balance and whether it has incurred a negative balance (daylight overdraft).

Under the current posting rules for commercial and government ACH transactions established in 1994, ACH debit transactions post at 11:00 a.m. Eastern time (ET), and ACH credit transactions post at 8:30 a.m. ET.[3] The Board delayed the posting of ACH debit transactions to allow receiving institutions time to obtain funds after the opening of the Reserve Banks' Fedwire Funds Service, which at that time opened at 8:30 a.m. Since then, the Fedwire Funds Service opening has been moved earlier, first in 1997 and again in 2005, and the service now opens at 9:00 p.m. the previous evening. Continuing the practice of delaying the settlement of ACH debit transactions until 11:00 a.m. is no longer necessary and may retard efforts by institutions to expedite funds settlements.

In 2008, the Board requested comment on moving the posting time of ACH debit transactions from 11:00 a.m. to 8:30 a.m. to coincide with the posting of ACH credit transactions but decided not to pursue the change because of economic conditions at the time and the additional costs and liquidity pressures that could be placed on some institutions.[4] Commenters' concerns included the costs associated with funding their accounts earlier in the day, the loss of interest income from holding higher overnight account balances rather than investing in the market, and the additional staffing costs that might be incurred to manage accounts before normal business hours, particularly for

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[2] The Board's PSR policy is available atwww.federalreserve.gov/paymentsystems/psr_policy.htm.

[3] All times are eastern time unless otherwise specified.

[4] The request for comment and the subsequent notice of the Board's decision not to pursue the proposed changes can be found, respectively, at 73 FR 12443 (Mar.7, 2008) and 73 FR 79127 (Dec. 24, 2008).

small institutions outside of the eastern time zone.[5] Although it chose not to pursue the simultaneous posting of ACH debit and credit transactions in 2008, the Board said that it would reconsider the proposed posting rule change in the future because it believed that the simultaneous posting of ACH credit and debit transactions at 8:30 a.m. would enhance the efficiency of the payment system in the long run. The Board also recognized that the potential burden of the posting rule change on institutions would be reduced through the payment of interest on Federal Reserve account balances and the implementation of a proposed (at that time) PSR policy change that would allow institutions eligible to incur intraday credit to collateralize all or a portion of their daylight overdrafts to reduce or eliminate any daylight overdraft fees.[6]

Since the initial 2008 proposal, the payment of interest on Federal Reserve account balances and the proposed PSR policy changes have been implemented, and the economic climate has improved. Interest on Federal Reserve account balances reduces institutions' costs of holding higher account balances overnight to fund an earlier posting of ACH debits.[7] The current PSR policy, implemented in March 2011, allows eligible institutions to collateralize their daylight overdrafts to reduce or eliminate any daylight

[5] Institutions have the option either to hold higher balances overnight or to arrange for sufficient funding before 8:30 a.m. for any transactions that process overnight and post early in the morning; eligible institutions may also incur daylight overdrafts.

[6] Edge and agreement corporations, bankers' banks that have not waived their exemption from reserve requirements, limited-purpose trust companies, government-sponsored enterprises including Federal Home Loan Banks (FHLBs), and international organizations do not have regular access to the discount window and are not permitted to incur daylight overdrafts in their Federal Reserve accounts. Voluntary collateralization of daylight overdrafts and the $150 fee waiver are not available to these institutions.

[7] Payment of interest on Federal Reserve account balances was implemented in October 2008. FHLBs are not eligible to earn interest on balances in Federal Reserve accounts, but can act as pass-through correspondents. As set out in Regulation D (12 CFR § 204.10), in cases of balances maintained by pass-through correspondents that are not interest-eligible institutions, Reserve Banks shall pay interest only on the balances maintained to satisfy a reserve balance requirement of one or more respondents, and the correspondents shall pass back to its respondents interest paid on balances in the correspondent's account.

overdraft fees associated with the proposed posting rule change. In addition, for each two-week reserve maintenance period, institutions receive a $150 fee waiver, reducing the burden on institutions that incur small amounts of uncollateralized daylight overdrafts. Although these changes alleviate the potential burden of the proposed ACH posting rule change for eligible institutions, for those institutions whose account balances may be adversely affected by the posting rule change and are ineligible for intraday credit and interest on balances in Federal Reserve accounts, the effect of moving to an 8:30 a.m. posting time for ACH debit transactions has not changed since the Board's proposal in 2008, and these institutions would need to hold higher balances overnight or manage their accounts before 8:30 a.m.

Currently, the Board's posting rules for commercial check transactions reflect a presumption that banks generally handle checks in paper form and do not reflect banks' widespread use of electronic check-processing methods.[8] As a consequence, the Board's posting rules align with the processing of less than one-tenth of 1 percent of checks that the Reserve Banks handle. The Board believes that settlement practices should reflect the speed of clearing as well as the timing of deposits and presentments, and that its posting rules should be updated to align with today's electronic check-processing environment.

The Reserve Banks' check-processing is almost 100 percent electronic today. Indeed, more than 99.9 percent of checks that depositary banks sent to the Reserve Banks

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[8] Commercial check transactions include all non-government check transactions. Treasury checks, postal money orders, local Federal Reserve Bank checks, and savings bond redemptions in separately sorted deposits already post at 8:30 a.m. and are not affected by the posting rules proposed in today's **Federal Register** notice.

The posting rules reflect a paper-processing era in which collecting banks, such as the Reserve Banks, generally had multiple daily paper deposit deadlines and in which banks used airplanes and couriers specifically dedicated to delivering paper checks. Today, by contrast, the Reserve Banks have only one paper deposit deadline per day but multiple electronic deadlines, and paper checks are generally delivered to banks by U.S. mail or other common carrier.

are now sent electronically, and more than 99.9 percent of checks the Reserve Banks presented to paying banks are presented electronically.[9] The Board, however, last revised its posting rules for commercial check transactions in 2002, before the effective date of the Check Clearing for the 21st Century Act (Check 21 Act).[10] In 2002, the Board was interested in removing barriers that might discourage institutions from agreeing to accept electronic check presentments. The posting rules were modified to allow debits associated with electronic check presentments to begin posting at 1:00 p.m. local time rather than 11:00 a.m. to ensure that institutions would not be debited earlier for electronic check presentments than for paper check presentments.[11]

The posting rules for commercial check presentments also allow for at least a one-hour window between presentment and posting of the associated debits to allow institutions time for limited verification of cash letters (batches of checks).[12] The Board

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[9] Statistics are for forward deposits and presentments only. In September 2013, over 98 percent of returned checks were deposited electronically, and over 96 percent of returned checks were delivered electronically by the Reserve Banks. A depositary bank is the bank into which a check is deposited; a paying bank is the bank on which a check is drawn.

[10] In 2002, depositary banks sent virtually all checks to the Reserve Banks in paper form, and the Reserve Banks, in turn, delivered about 75 percent of checks to paying banks in paper form. The Reserve Banks presented less than 25 percent of their check volume electronically by agreement with the paying bank.

The Check 21 Act, which became effective in October 2004, was designed to enhance payment system efficiency by reducing legal impediments to processing checks electronically. The Check 21 Act facilitated processing checks electronically by creating a new type of paper instrument, called a substitute check, which is the legal equivalent of the original check for all purposes. As a result, a collecting bank could receive an electronic file and create substitute checks from check images in the file to present to paying banks that did not accept electronic check presentment.

[11] Before the change, debits associated with all commercial check transactions, whether paper or electronic, were posted on the next clock hour that was at least one hour after presentment, beginning at 11:00 a.m. Because Reserve Banks generally delivered electronic check presentment files early in the morning, the corresponding debits would occur at 11:00 a.m. for many institutions, earlier than the posting times associated with paying banks receiving paper check presentments. The Board was concerned that this timing difference may have created modest and undesirable incentives for paying banks to continue to require that checks be presented in paper form.

[12] The one-hour window between presentment and settlement is also specified in subpart A of Regulation J. Elsewhere in the **Federal Register**, the Board is proposing necessary related changes to this and another provision in the Board's Regulation J.

adopted the current one-hour window between presentment and settlement in 1992 when the Reserve Banks presented paper to paying banks. Electronic delivery of checks and computerized handling within institutions should facilitate a paying institution's ability to verify the receipt of cash letters sooner than when presentment was predominately in paper form.

The Board also recognizes that there may be certain Reserve Bank operational processes that need modification to eliminate exceptions to faster clearing and settlement. In particular, the Reserve Banks have worked with institutions over the years to develop flexible electronic file presentment schedules. These schedules covered the timing and frequency of electronic check presentments and were designed to encourage banks to accept electronic presentments. For some institutions, the Reserve Banks have been creating a single file that includes all of the institution's check activity for the day that is presented late in the day (but before 2:00 p.m. local time of the institution).[13] The Reserve Banks, however, have taken a recent step in advancing the speed of check clearing that now will likely result in all institutions receiving multiple presentment files beginning January 2, 2014.[14] Any posting rule change to align settlement with today's

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The one-hour window allowed the paying bank to verify that the cash letter had been received, but was not intended to allow the paying bank to examine individual checks prior to settling for the cash letter. Cash letters include a group of checks packaged as paper items or electronic records that are presented to the paying bank. A cash letter includes physical documentation or electronic records containing the depositor routing number, a list detailing the amount of each check, and the total amount and the number of all checks in the cash letter.

[13] For most institutions, the Reserve Banks make available multiple electronic check presentments beginning early in the morning.

[14] On October 3, 2013, the Reserve Banks announced a new product that will likely result in institutions receiving an additional presentment file. Specifically, the Reserve Banks will be adding an additional FedReturn image cash letter deposit deadline at 12:30 p.m. beginning on January 2, 2014. Any FedReturn file deposited with the Reserve Banks before 12:30 p.m. will be delivered to the depositary bank by 2:00 p.m. local time. For more information, *see* http://www.frbservices.org/files/communications/pdf/check/100313_deposit_deadline.pdf.

clearing practices would also likely result in multiple presentments, and such presentments would begin early in the day. If not, those institutions that receive all check activity in a late day presentment file would be able to gain an intraday liquidity advantage by delaying presentment and consequently debits, while benefiting from the earlier availability of credits from deposited checks. To mitigate the effects of these changes, institutions may choose for business or other reasons not to access presentment files made available until specific times in the day, but the Reserve Banks would still settle those transactions based on presentment having been made.[15]

II. Discussion of Proposed Changes

1. Commercial and Government ACH Debit Transactions

Consistent with its proposal in 2008, the Board proposes to move the posting times for ACH debit transactions processed overnight to 8:30 a.m. from 11:00 a.m. to coincide with the posting time for ACH credit transactions processed overnight. Other types of ACH transactions, including same-day ACH and certain ACH return items, would not be affected and would continue to post at 5:00 p.m.

Posting ACH debit transactions according to the proposed posting rules would

- simplify account management by allowing institutions to fund the net of all ACH activity at a single posting time, rather than funding debit and credit transactions separately
- increase liquidity early in the day for institutions that originate ACH debit transactions over the FedACH network, and for those institutions that originate

[15] The Reserve Banks send institutions presentment notifications with the value of presentments by FedMail or make them available on FedLine Web. Institutions also have access to information through Account Management Information.

ACH debit transactions over the Electronic Payments Network (EPN), the other ACH operator, but have transactions delivered to receiving institutions over the FedACH network (inter-operator transactions)[16]

- align the Reserve Banks' FedACH settlement times with those of the other ACH operator, EPN
- increase the efficiency of the ACH by aligning the processing of ACH debit transactions with settlement

The proposed ACH posting rules would also better conform to the Board's principles for measuring daylight overdrafts, which the Board developed in the early 1990s to guide the development of posting rules.

By posting ACH credit and debit transactions simultaneously to Federal Reserve accounts, institutions' balances would increase or decrease by only the net amount of funds from daily ACH settlements. Debits associated with the receipt of ACH debit transactions could be simultaneously offset by credits from the receipt of ACH credit transactions, and vice versa. Among other benefits, the netting of ACH credit and debit transactions would enhance the efficiency of the payment system by reducing the potential for intraday liquidity demands from institutions with a concentration of activity in certain types of ACH transactions. Additionally, simultaneously posting the majority of ACH activity at 8:30 a.m. would reduce the burden of separately monitoring and funding net ACH credit transactions and net ACH debit transactions at 8:30 a.m. and 11:00 a.m., respectively.

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[16] Liquidity refers to balances in Federal Reserve accounts to make payments. An increase in liquidity involves higher account balances, which could result in fewer daylight overdrafts.

As a consequence of the proposed change, institutions that originate debit transactions would benefit from the earlier availability of credits associated with ACH debit transactions. For example, an institution that originates a large value of ACH credit and debit transactions may be net positive for daily ACH activity but under current posting rules may require intraday credit between 8:30 a.m. and 11:00 a.m. to fund the earlier posting of ACH credit transactions. Although only approximately 2 percent of institutions, or roughly 75 institutions, are net receivers of funds from ACH debit transactions, the impact on liquidity of the later posting of ACH debit transactions can be significant because of the large value of debit transactions that they originate.

The existing later settlement time of ACH debit transactions also introduces the possibility of a competitive disparity between the Reserve Banks' FedACH service and EPN, because EPN's practice is to post both ACH credit and debit transactions at 8:30 a.m., which may be a more attractive service for large originators. Aligning the settlement times between FedACH and EPN would remove any resulting competitive disparities related to settlement times between the two ACH operators. Although most commenters in 2008 believed that FedACH's disadvantage relative to EPN was minimal, the competitive landscape between the operators continues to evolve, and the Board is interested in ensuring that its posting rules do not create a competitive disadvantage for either operator.

When considering changes to the posting rules, the Board evaluates proposals against its principles for measuring daylight overdrafts. These principles were formalized in the early 1990s to guide the development of the posting rules to measure daylight overdrafts and continue to be relevant today.

The four principles are:

1) To the extent possible, the measurement procedures should not provide intraday float to participants.

2) The measurement procedures should reflect the times at which payor institutions are obligated to pay for transfers.

3) The users of payment services should be able to control their use of intraday credit.

4) The Reserve Banks should not obtain any competitive advantage from the measurement procedures.

In evaluating the proposed posting rule change against its principles for measuring daylight overdrafts, the Board notes that neither the existing nor the proposed posting rules provide intraday float, because both the credit and debit entries associated with each type of ACH transaction post simultaneously. However, the earlier posting time of 8:30 a.m. for ACH debit transactions would conform more closely with the second principle that posting times should reflect the time at which the payor institution is obligated to pay. The purpose of the second principle is to minimize as much as possible the period between when the payments are delivered to the institution and when the payment is settled. The Reserve Banks' FedACH processing day extends from 3:00 a.m. to 2:59 a.m. on the next calendar day. The FedACH payments settling on a given processing day are usually processed by 4:00 a.m., and payment advices are sent to institutions by 6:00 a.m. By moving the posting time of ACH debit transactions from 11:00 a.m. to 8:30 a.m., the posting rules would reduce the window between when receivers of ACH debit transactions receive ACH debit files and when they are obligated to settle these payments.

The third principle specifies that institutions should be able to control their use of intraday credit and monitor their accounts to comply with limits and other restrictions related to daylight overdrafts. As discussed previously, this principle motivated the later posting of ACH debit transactions to allow institutions time to fund their ACH debit activity over Fedwire. Because the Fedwire Funds Service now opens at 9:00 p.m. the previous calendar day, institutions have the operational ability to fund ACH debit activity before 8:30 a.m. Lastly, the proposed posting rules for ACH debit transactions align with the fourth principle that the Reserve Banks should not obtain a competitive advantage from the measurement procedures, because the proposed settlement time of 8:30 a.m. for ACH debit transactions is within the settlement window available to private-sector operators using the National Settlement Service (NSS) service.[17]

Despite the benefits associated with the earlier posting of ACH debit transactions, because of the concentration of ACH debit origination activity, most institutions are receivers of ACH debit transactions, and, as a result, the Board recognizes that the posting rule change would reduce, on average, account balances between 8:30 and 10:59 a.m. for most FedACH participants. Based on second-quarter 2013 payment data, 98 percent of approximately 3,300 participants on average would experience lower balances over the quarter.[18] The average change in balances on days with affected payments for institutions eligible and ineligible to receive intraday credit would be $5 million and $76

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[17] NSS is a multilateral settlement service owned and operated by the Reserve Banks. The service is offered to institutions that settle for participants in clearinghouses, financial exchanges, and other clearing and settlement groups. Settlement agents, acting on behalf of those institutions in a settlement arrangement, electronically submit settlement files to the Reserve Banks. Files are processed upon receipt, and entries are automatically posted to the institutions' Federal Reserve accounts. The NSS operating hours are currently 8:30 a.m. to 5:00 p.m.

[18] Although most institutions with master accounts are involved in both ACH and commercial check activity, approximately half of these participants settle their activity to a correspondent rather than their own master account.

Analysis in this notice is intended to be illustrative only and reflect activity at the master account level from the second quarter 2013. All institutions should consider their own historical payment activity when evaluating the effect of the proposed posting rule changes.

million, respectively.[19] Out of those institutions that would experience lower balances, less than one-half of 1 percent, only 13 institutions, would incur overdraft fees in any of the six two-week reserve maintenance periods (RMP) within the quarter analyzed.[20]

Nine of the 13 institutions that would incur higher fees are eligible to incur daylight overdrafts. The average increase in fees over the quarter would be $33 per RMP, and the largest average fee increase per RMP for an institution was estimated at $132.[21] To avoid fee increases, these institutions could pledge on average $7 million of (additional) collateral.[22] Alternatively, they could hold higher balances and receive interest on their Federal Reserve balances, or arrange early morning funding.

Additionally, 4 of the 13 institutions are ineligible to receive intraday credit and would incur overdrafts under the proposed rules. To avoid violating the PSR policy and incurring fees, these institutions would need to increase funding in their accounts on average by $33 million either overnight or through early morning funding.[23] These

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[19] Ninety-seven percent of these institutions are community banks and credit unions with assets of less than $10 billion. These data are similar to the results for the proposed commercial check posting rules discussed later in the notice.

The average balance calculation only includes days in the second quarter of 2013 for which institutions had ACH debit transactions. The simulation of balances under the proposed posting rules focuses only on balances held at 8:30 a.m., while the analysis of fees and collateral takes into account balances held and collateral pledged over the entire 21.5-hour Fedwire operating day.

[20] In response to the Board's 2008 proposal to post ACH debit transactions at 8:30 a.m., several commenters, although generally supportive of the proposals, raised concerns about institutions located in western time zones that would likely incur costs associated with the proposed change. Based on the current data analysis, the institutions that would incur increased fees are not disproportionally located in any single time zone. These data are similar to the results for the proposed commercial check posting rules discussed later in the notice.

[21] The average calculation includes all RMPs in the quarter.

[22] The average calculation only includes RMPs for which institutions required (additional) collateral.

[23] These institutions are not eligible to collateralize daylight overdrafts. The average additional funding relates only to RMPs for which institutions required additional funds.

institutions include bankers' banks and Federal Home Loan Banks, and not all would be eligible to earn interest on their Federal Reserve balances.

Overall, the Board believes that accelerating the settlement of ACH debits from 11:00 a.m. to 8:30 a.m. promotes the efficiency of the ACH network and strategically aligns the payment system for future advancements in the speed of clearing and settlement. The Board also believes that the reduction in potential liquidity extensions by the Reserve Banks to large originators, simplified account management, the alignment of settlement times between FedACH and EPN, and the improvement gained in measuring daylight overdrafts relative to the Board's principles provide benefits that outweigh the increase in funding costs or overdraft fees that may be incurred by less than one-half of 1 percent of affected institutions. Additionally, the Board believes that the majority of these institutions could avoid increased fees by pledging (additional) collateral, and for most institutions that choose to hold higher balances, interest paid on balances in Federal Reserve accounts would reduce the costs associated with doing so.

Questions

In response to the Board's proposal to change the posting times for ACH debit transactions, the Board requests comment on the benefits and drawbacks. In particular,

(1) What additional costs would institutions expect to incur in order to fund their Federal Reserve accounts by 8:30 a.m. for ACH debit transactions? Are there significant differences in the anticipated effect on those institutions eligible and ineligible to receive intraday credit or earn interest on balances in Federal Reserve accounts?

(2) What are the expected benefits from posting ACH debit transactions earlier?

(3) Would the proposed changes affect the availability of funds to institutions' customers' accounts? Would the proposed changes affect the debiting of funds from institutions' customers' accounts?

(4) What additional costs would institutions expect to incur if ACH credit and debit transactions were posted between 6:00 a.m. and 8:30 a.m.? If the Reserve Banks' NSS operating hours did not open before 8:30 a.m. would that create a competitive disadvantage for private-sector operators?

2. Commercial Check Transactions

Under the current posting rules, commercial check credits post according to one of two options: (1) all credits post at a single, float-weighted posting time, or (2) fractional credits post between the hours of 11:00 a.m. and 6:00 p.m., depending on the institution's preference.[24] Both crediting options are based on surveys of check presentment times and vary across time zones. Commercial check debits are posted on the next clock hour at least one hour after presentment beginning at 11:00 a.m. for paper checks and 1:00 p.m. local time for electronic checks, and ending at 3:00 p.m. local time.

In order to reflect today's electronic check-processing environment, the Board proposes to post commercial check transactions, both credits and debits, at 8:30 a.m., 1:00 p.m., and 5:30 p.m., with the specific posting time depending on when the check was deposited with the Reserve Banks (for credits) or presented by the Reserve Banks

[24] The first option allows an institution to receive all of its check credits at a single time for each type of cash letter. This time may not necessarily fall on the clock hour. The second option lets the institution receive a portion of its available check credits on the clock hours between 11:00 a.m. and 6:00 p.m. The option selected applies to all check deposits posted to an institution's account. Reserve Banks calculate crediting fractions and float-weighted posting times for each time zone based on surveys.

(for debits).[25] Credits associated with any commercial checks received by the Reserve Banks' deposit deadlines would post on a rolling basis at the next available posting time at least 30 minutes after receipt by the Reserve Banks.[26] Currently, the Reserve Banks' electronic check deposit deadlines are 9:00 p.m. on the previous business day, and 1:00 a.m., 5:00 a.m. and 10:00 a.m. on the settlement day. The paper check deposit deadline is 7:00 p.m. on the previous business day. As a result, depositary banks could expect credit for all electronic items deposited for the 9:00 p.m., 1:00 a.m., and 5:00 a.m. deposit deadlines to post at 8:30 a.m., and credit for electronic items deposited for the 10:00 a.m. deadline to post at 1:00 p.m. Paper items deposited by 7:00 p.m. on the previous day would post at 8:30 a.m.

Similarly, debits associated with electronic check transactions would post on a rolling basis at the next available posting time that is at least 30 minutes after presentment to the paying bank. Paper presentments are made to institutions by mail or courier, and delivered one to two business days after leaving the Reserve Banks, usually before 2:00 p.m. local time. To accommodate the extra time required to make paper presentments, the few remaining paper commercial check debit transactions, which account for less than one-tenth of 1 percent of checks processed by the Reserve Banks,

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[25] Foreign checks are not affected by the proposed posting rules for commercial check transactions, and credits for foreign checks deposited and debits to subsequent collecting banks into which the Reserve Banks deposit would continue to post after the close of Fedwire. Additionally, as is the case today, credit to institutions for foreign checks deposited may be delayed until these checks clear depending on the value and point of origination of the check. To clarify treatment of foreign checks, the posting rule for transactions that post after the close of the Fedwire Funds Service has been updated to include a reference to foreign checks.

[26] Immediate credit would not be passed for deferred-availability deposit products. Customer availability for files deposited for these services would be the same as if the file were received at a deposit deadline before 8:00 a.m. the next business day.

would post at the final posting time of 5:30 p.m. on the day the paper check is presented to the paying bank.[27]

Under the current posting rules and Regulation J, at least one hour (versus the proposed 30 minutes) must elapse between presentment and posting to allow limited verification of cash letters. In September 2013, almost 100 percent of checks were presented electronically by the Reserve Banks, and 98 percent of routing numbers received forward check presentments electronically.[28] As a result of the widespread use of electronic check-handling methods and the extremely small value of paper presentments, the Board believes 30 minutes is now sufficient for institutions to verify cash letters.[29]

The Reserve Banks would present multiple electronic files per day to institutions that receive electronic presentments, with the first presentment by 8:00 a.m. for settlement at 8:30 a.m. and subsequent presentment files made based on an institution's check activity for the day.[30] Although checks are available for presentment today by 8:00 a.m., as discussed earlier, the Reserve Banks have been holding back presentment for some institutions until later in the day to accumulate all check activity into one

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[27] The posting of electronic presentments earlier than paper check presentments may contribute marginally to a given paying bank's incentive to require that checks be presented to it in paper form. Electronic check presentment is now pervasive, however, and the Board does not believe that a paying bank that receives presentments electronically would be swayed by the later posting time to return to paper presentment.

Credits for checks presented in paper form would not be delayed to accommodate the extra time required for presentment, and would post at the next available posting time at least 30 minutes after receipt by the Reserve Banks.

[28] Although some participants only have one routing number, other participants may have multiple (in some cases more than 100) routing numbers to facilitate their payments processing.

[29] The Board is also issuing a separate notice requesting comment on proposed changes to Regulation J, under which a paying bank would be required to settle for an item by as early as 8:30 a.m. and as soon as one half-hour after it receives the item from the Reserve Banks.

[30] The timing and frequency of presentments is subject to change by the Reserve Banks to align better with processing advancements and product type.

presentment file. That file is often made available after 12:00 p.m. local time. The proposed posting rules would likely result in the first presentment file received by institutions to be by 8:00 a.m. Other changes already announced by the Reserve Banks will likely result in institutions receiving multiple files per day and would eliminate the exception arrangements of only one presentment file. For business, technology, or other reasons, institutions may choose not to access these presentment files until a specific time in the day. The Reserve Banks, however, would continue to settle those transactions based on presentment having been made, and institutions would need to manage their Federal Reserve accounts accordingly.

The Board is also proposing to revise the posting rules for large-value check corrections and adjustments. Currently, corrections and credit adjustments amounting to $1 million or more post at 11:00 a.m. and hourly thereafter, coinciding with the current posting rules for commercial checks, while large-value debit adjustments post after the close of the Fedwire Funds Service. In alignment with the proposed posting times for commercial check transactions, the Board proposes to move the settlement of large-value credit corrections and adjustments to begin at 8:30 a.m. and hourly thereafter on the half-hour. Moving the settlement of large-value credit corrections and adjustments to 8:30 a.m. in combination with the earlier posting of commercial check transactions would ensure prompt credit for any discrepancies detected by the Reserve Banks or an institution. The Board also proposes to post large-value debit corrections at the same time as large-value debit adjustments after the close of the Fedwire Funds Service. Posting debit corrections after the close of Fedwire Funds would ensure that institutions would only benefit intraday from detected processing errors and that an institution would not receive a large-value debit correction before the associated check transaction posted. The magnitude of the proposed change would be minimal because of the limited occurrences of large-value check corrections in Reserve Bank processing. For example, in June 2013, 7 large-value debit corrections were initiated for a total value of $4.5 million.

Posting commercial check transactions according to the proposed posting rules would:

- give earlier availability for items deposited with the Reserve Banks based on an institution's deposit behavior as well as provide earlier credit for adjustments and corrections identified
- simplify the posting rules structure and, as a result, reduce its administrative burden to institutions and Reserve Banks
- reduce the amount of intraday float currently provided by the Reserve Banks based on posting rules that do not reflect current processing
- align the posting rules with the significant shift over the past decade to electronic check clearing

The commercial check posting rules would also better conform to the Board's principles for measuring daylight overdrafts, which the Board uses to guide the development of posting rules.

Under the proposed posting rules, institutions would benefit from the prompt availability of credits from check activity. The availability of funds from checks also would reflect individual institutions' deposit behavior. According to recent data on deposits received by the Reserve Banks, almost all check credits would post at the 8:30 a.m. posting time.

By posting credits and debits at the next available posting time at least 30 minutes after deposit or presentment, commercial check posting rules would be conceptually much simpler and would allow institutions to identify more easily the value and posting time of check credits and debits. All check credits and debits would post at one of the three set posting times regardless of time zone, with the vast majority posting at 8:30 a.m., reflecting actual deposit and processing activity. An institution could easily determine the time at which funds associated with commercial check transactions would be made available, either 8:30 a.m. or 1:00 p.m., based on current deposit deadlines. Additionally, the proposed rules would be operationally less burdensome because the Reserve Banks would not need to survey periodically check presentment times to determine when check credits would post, and any evolution in typical deposit behavior by institutions or presentment cycles at the Reserve Banks would be automatically accounted for by the proposed rules.

As with all posting rule changes, the Board evaluated this posting rule proposal against its principles for measuring daylight overdrafts. With regard to the first principle that the measurement procedures do not provide intraday float, under the current posting rules, check credits and paper check debits begin posting at 11:00 a.m., whereas electronic check debits begin posting at 1:00 p.m. local time. As a result, the current measurement procedures provide intraday float during the day, which has increased over time as electronic deposits and presentments have expanded. Under the proposed posting rules, the likelihood of intraday float would be minimized by facilitating the prompt, largely simultaneous settlement of both check credits and debit entries at each posting time. Minimal intraday float may be generated because of operational delays in presentments. Additionally, the Board estimates that the Reserve Banks would incur a de minimis amount of overnight float per day, representing about 0.3 percent of the value of checks that the Reserve Banks process each day, because of paper presentments, presentments to regions over the International Date Line, and priced presentment products offered by the Reserve Banks.[31]

With respect to the Board's second principle, the proposal would, overall, decrease the time between presentment of checks and the paying bank's obligation to settle. The current posting rules for commercial check continue to reflect the time required to physically process and present checks, and do not take into consideration the efficiencies gained from electronic processing and presentment. Furthermore, the rules allow for relatively long lags between when checks are processed and when the associated transactions settle, including the delayed 1:00 p.m. local time posting of electronic debits and a minimum one-hour window between presentment and posting of debits. On average, over 90 percent of the value of forward electronic checks is available to be presented by 8:00 a.m., but the associated debits do not begin to settle until 1:00 p.m. local time.[32] Likewise, check credits associated with these transactions do not begin posting until 11:00 a.m. By crediting and debiting institutions at 8:30 a.m. for the bulk of

[31] For example, an institution that provides corporate cash management services may opt for a premium presentment service that allows the institution to establish a morning cutoff time for its presentments. All presentments to be made to the institution after the cutoff time would be held and presented to the institution on the following business day. Credit to the depositary bank, however, would be passed on the current business day. The Board expects that very few checks would be held over as a result of such services.

[32] Actual value of check presentments made by 8:00 a.m. is approximately 82 percent because some institutions do not have presentment arrangements before 8:00 a.m.

daily check activity and reducing the window between presentment and posting to 30 minutes, the proposed posting rules would align much more closely with when the Reserve Banks are able to process and present commercial checks to paying banks.

Both the current and proposed posting rules conform to the third principal that users of intraday credit should be able to manage their usage of intraday credit by establishing set posting times when institutions can expect to be credited or debited. Under the proposed rules, institutions would have the ability to determine when they would receive credits by choosing to deposit at an earlier or later deposit deadline. Institutions could readily calculate the value of credits or debits that would post to their Federal Reserve accounts at each of the three posting times by the value of check deposits made or presentments received at least 30 minutes before the next posting time. Similar to the earlier proposed posting time for ACH debit transactions, institutions may need to adjust their account management due to the earlier posting of check transactions. To estimate their potential liquidity need at 8:30 a.m. and throughout the day, institutions could consider their historical deposit patterns and presentment times.[33] Ultimately, some institutions may need to hold higher balances overnight, arrange early morning funding, or incur daylight overdrafts, if eligible, to fund the earlier posting of check transactions.

Lastly, the fourth principle requires that Reserve Banks do not obtain a competitive advantage from the measurement procedures. Under Regulation J, the Reserve Banks have the legal and operational ability to debit paying banks for paper

[33] In assessing the effect of the proposed posting rules, institutions receiving only one presentment file per day today would need to adjust their current presentment times to reflect the earlier posting time and receipt of multiple files.

presentments of checks earlier in the day than private-sector collecting banks and, in turn, pass credits for deposited checks earlier in the day without incurring significant intraday float. In March 1998, the Board requested comment on whether these legal differences between the Reserve Banks and the private sector provided the Reserve Banks with a competitive advantage and, if so, whether these legal differences should be reduced or eliminated. Based on the analysis of the comments received, the Board concluded then and continues to believe that these legal disparities do not materially affect the efficiency of or competition in the check-collection system. Furthermore, the vast majority of check activity is now electronic, and banks have the ability to directly exchange checks electronically with banks with which they have agreements to do so. As part of these agreements, depositary and paying banks may determine the timing and method of settlement. Additionally, private-sector check clearinghouses have the option to use NSS to effect settlement of checks or may settle by directing their members to initiate funds transfers over the Reserve Banks' Fedwire Funds Service. NSS's operating hours extend from 8:30 a.m. to 5:00 p.m.; Fedwire Funds operating hours begin at 9:00 p.m. the previous calendar day and end at 6:30 p.m. The Reserve Banks today settle commercial check transactions (including corrections and adjustments) from 11:00 a.m. to 6:30 p.m. within the Fedwire Funds operating day. From a payment system risk perspective, the Board has traditionally encouraged the use of NSS for multilateral settlement arrangements and is seeking comment on whether the Reserve Banks should consider extending NSS hours to accommodate a somewhat later settlement time by private-sector clearinghouses. Lastly, the earlier posting of check credits and debits may be viewed as more or less advantageous depending on an institution's net check activity for the day, but it is unlikely to be a material consideration because of its minimal effect on Federal Reserve account balances and variability over time. As a result, the Board believes the fourth principle would continue to be met.

By posting check debits and credits according to the proposed posting rules, most institutions could expect that the value of checks credited and debited at 8:30 a.m. would largely reflect their net daily check activity. For approximately 36 percent of the 3,100 check participants, account balances at 8:30 a.m. would be higher on average under the proposed rules due to the earlier availability of funds received from checks.[34] For the 64 percent of participants with lower average balances at 8:30 a.m. under the proposed rules, the average change in balances for institutions eligible and ineligible to receive intraday credit would be $5 million and $21 million, respectively. Only 22 institutions, however, would incur overdraft fees in any of the six RMPs within the quarter analyzed.

Twenty-one of the 22 institutions that would incur higher fees are eligible to incur daylight overdrafts. The average increase in fees over the quarter would be $104 per RMP; these data include one institution whose average RMP fee increase was estimated at $1,027, $756 higher than the institution with the next largest average RMP fee increase.[35] To avoid fee increases, these institutions could pledge on average $14 million of (additional) collateral.[36] Alternatively, they could hold higher balances and

[34] The average balance calculation only includes days in the second quarter of 2013 for which institutions had commercial check payment activity. The simulation of balances under the proposed posting rules focuses only on balances held at 8:30 a.m., while the analysis of fees and collateral takes into account balances held and collateral pledged over the entire 21.5-hour Fedwire Funds operating day.

[35] The average calculation includes all RMPs in the quarter. The average increase in fees over the quarter would be $58 per RMP if the data excluded that one institution.

[36] The average calculation only includes RMPs for which institutions required (additional) collateral.

receive interest on Federal Reserve account balances, or arrange for early morning funding.

Additionally, 1 of the 22 institutions is ineligible to receive intraday credit and would incur overdrafts under the proposed rules. To avoid violating the PSR policy and incurring fees, the institution would need to increase funding in its account on average by $24 million either overnight or through early morning funding.[37] This institution would be eligible to receive interest on Federal Reserve account balances.

Overall, the Board believes that the proposed posting rules for check transactions are necessary to reflect the speed of electronic check-processing and to remove antiquated provisions based on the previous environment of paper processing. Furthermore, the proposed posting rules will position the Reserve Banks to make further enhancements to the speed of processing by aligning the clearance and settlement of check payments. In addition, the posting rules would benefit participants by providing earlier availability of funds that reflect their deposit behavior and reduce the administrative burden of the current regime. The Board believes these benefits outweigh the increase in funding costs or overdraft fees that may be incurred by less than three-quarters of 1 percent of affected institutions. Additionally, the Board believes that these institutions could avoid increased fees by pledging (additional) collateral or holding higher balances, which would receive interest on Federal Reserve account balances.

[37] This institution is not eligible to collateralize daylight overdrafts. The average additional funding relates only to RMPs for which the institution required additional funds.

Questions

In response to the Board's proposals to change the posting times for commercial check transactions and large-value corrections and credit adjustments, the Board requests comment on the benefits and drawbacks. In particular,

(1) What additional costs would institutions expect to incur in order to fund their Federal Reserve accounts by 8:30 a.m. for commercial check transactions? Are there significant differences in the anticipated effect on those institutions eligible and ineligible to receive intraday credit or earn interest on balances in Federal Reserve accounts?

(2) What are the expected benefits from posting commercial check transactions earlier?

(3) Would the proposed changes affect the availability of funds to institutions' customers' accounts? Would the proposed changes impact the debiting of funds from institutions' customers' accounts?

(4) Would posting check debits at 5:30 p.m., after the current close of NSS, give the Reserve Banks a material competitive advantage relative to private-sector clearinghouses? Should the Reserve Banks consider expanding the operating hours of NSS to 5:30 p.m. to support the needs of private-sector clearinghouses or collecting banks?

(5) For those institutions receiving paper presentments, would a posting time after the close of the Fedwire Funds Service be better than 5:30 p.m.?[38] What are the reasons?

(6) What additional costs would institutions expect to incur if commercial check transactions posted between 6:00 a.m. and 8:30 a.m.? Would NSS hours need to expand to ensure that the earlier posting would not result in a material competitive disparity between the Reserve Banks and private-sector operators?

(7) Although Reserve Banks are already making changes that will result in paying banks receiving at least two presentment files per day, would adding one, two, three, or more additional presentment files increase costs materially?

(8) Would 15 minutes, rather than the 30 minutes proposed for limited verification of cash letters, be sufficient time given that most cash letters are processed electronically? For consistency, should the Reserve Banks establish in their Operating Circular a minimum 15- or 30-minute window between established distribution times for ACH debit transaction files and posting to ensure institutions can view the amount settling in their accounts before it is debited?[39]

(9) Would the earlier posting of electronic presentments materially incent institutions to accept only paper presentments?

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[38] Because of operational limitations and for account management reasons, the operating hours for NSS could not be extended to 6:30 p.m. for a comparable settlement option. The operating hours for NSS would need to close sufficiently before 6:00 p.m. to ensure that the Fedwire Funds 6:00 p.m. third-party close and the Fedwire Funds 6:30 p.m. settlement close would not be delayed. In addition, historically, NSS has closed well before the Fedwire Funds third-party close to allow for contingency settlement on Fedwire Funds in the event that normal settlement procedures on NSS were unsuccessful. Posting debits for paper presentments after the close of Fedwire would be consistent with the posting of foreign checks, which is a paper-based process.

[39] Operating Circular 4 applies to the clearing and settlement of commercial ACH credit and debit transactions for the Reserve Banks' ACH service.

Combined effect of proposed posting rules for ACH debit and commercial check transactions

The Board assessed the combined effect of the changes to both the ACH debit and commercial check transaction posting rules on institutions' account balances and daylight overdraft fees. Most institutions would experience an increase in settlement activity at 8:30 a.m. Overall, the combined posting rule proposals would reduce, on average, account balances held in Federal Reserve accounts at 8:30 a.m. for most institutions, but the vast majority of those institutions would not incur daylight overdraft fees as a result. The low incidence of fees can be attributed to the current levels of pledged collateral and collateralized daylight overdrafts receiving a zero fee, the $150 fee waiver covering modest amounts of uncollateralized overdrafts, and the historically high balances held in Federal Reserve accounts.

Table – Combined effect of proposals on institutions' balances[40]

Institution type	Change in balances at 8:30 a.m.	Number of institutions	Average change (millions)
Eligible to incur daylight overdrafts	Higher	200	55
	Lower	3,251	-7
	Daylight overdrafts incurred	919	-10
Ineligible to incur daylight overdrafts	Higher	4	1,611
	Lower	23	-81
	Daylight overdrafts incurred	5	-102

As indicated in the table, approximately 200 institutions (6 percent) would incur an increase in available cash balances in their Federal Reserve accounts at 8:30 a.m. from

[40] All data presented are based on the second quarter 2013. The balances for one institution eligible to incur daylight overdrafts were unchanged at 8:30 a.m. between the current and proposed posting rules.

the combined posting rule changes. The earlier credit for commercial check transactions is a large contributor to the higher balances at 8:30 a.m. for most of these institutions; large originators of ACH debit transactions also benefit (on average balances increase approximately $163 million) from the earlier posting of these transactions. At the same time, almost 3,300 institutions (94 percent) of the approximate 3,500 participants in ACH and commercial check on average would experience lower balances at 8:30 a.m.[41] The primary driver for this reduction is that the vast majority of these institutions are community banks or credit unions with assets of less than $10 billion that receive rather than originate most ACH debit transactions.[42] Those institutions' accounts would be debited earlier in the day than the current posting rules. The average change in balances for institutions with lower balances at 8:30 a.m. would be $7 million for institutions eligible to receive intraday credit and $81 million for ineligible institutions.

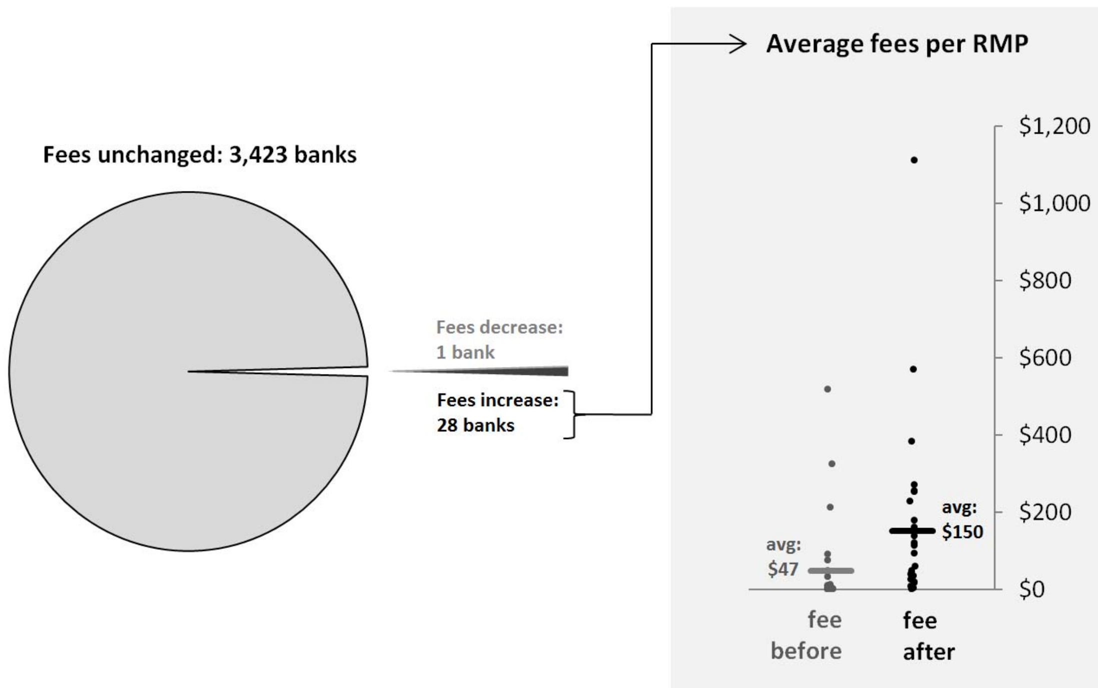
Of the 23 institutions that would incur lower balances and are ineligible to receive intraday credit, only 5 would incur daylight overdrafts under the proposed posting rules. On average these 5 institutions would incur daylight overdrafts in four of the six RMPs in the quarter analyzed. These 5 institutions would need to make account management changes to either increase funding held in their Federal Reserve accounts overnight or arrange for early morning funding. Some, but not all, of these institutions would be eligible to earn interest on Federal Reserve balances for higher balances held overnight.

[41] The average balance calculation only includes days in the second quarter of 2013 for which institutions had ACH debit or commercial check payment activity. The simulation of balances under the proposed posting rules focuses only on balances held at 8:30 a.m., while the analysis of fees and collateral takes into account balances held and collateral pledged over the entire 21.5-hour Fedwire Funds operating day.

[42] Of these institutions with lower balances, 97 percent are small banking organizations (assets of $500 million or less) or community banks or credit unions with assets between $500 million and $10 billion.

In addition, of the 3,250 institutions that would experience lower balances and are eligible to incur daylight overdrafts, approximately 919 would also incur daylight overdrafts or incur them at higher levels. At the same time, less than 1 percent, only 28 institutions, would incur any daylight overdraft fees associated with the proposed posting rules in any of the six RMPs within the quarter.

Figure – Combined effect on fees for institutions eligible to incur daylight overdrafts[43]



As illustrated in the figure, 3,423 institutions that are eligible to incur daylight overdrafts would not incur an increase in fees charged, while 28 institutions would incur higher fees. These 28 institutions would incur increased fees on average in three of the six RMPs in the quarter analyzed. The average increase in fees over the quarter would be $103 per RMP (the difference between the current and potential average fees); these data include one institution whose average RMP fee increase was estimated at $1,035, $764

[43] Different institutions incurred the highest average fees per RMP under the current and proposed posting rules.

higher than the institution with the next largest average RMP fee increase.[44] The average increase in fees over the quarter would be $68 per RMP if the data excluded that one institution. Some of these institutions (about 43 percent) are already incurring fees under the current posting rules. In addition, almost all of these institutions have a *de minimis* or self-assessed net debit cap, permitting these institutions to incur daylight overdrafts up to 40 percent of their capital if *de minimis* or multiples of their capital if self-assessed.[45] Only one institution has an exempt cap, which is the lowest level of daylight overdraft capacity available to institutions. Of the 28 institutions that would incur higher fees, 23 are community banks and credit unions with assets between $500 million and $10 billion, and 3 are small banking organizations with assets of $500 million or less. To avoid fee increases, these 28 institutions could pledge on average $15 million of (additional) collateral.[46] Alternatively, they could hold higher balances and receive interest on Federal Reserve account balances, or arrange for early morning funding.

Institutions that would incur higher fees are evenly distributed across time zones, including the Pacific time zone. In an earlier proposal, commenters raised concerns that institutions located in western time zones might incur disproportional higher costs associated with earlier posting times. Of the 28 institutions with higher fees, the greatest concentration is located in the Eastern time zone.

The Board recognizes that a limited number of institutions would need to take proactive steps to manage their Federal Reserve accounts to minimize increased fees or to

[44] The average calculation includes all RMPs in the quarter.

[45] The PSR policy establishes a limit on the amount of intraday credit that an institution may incur during any given day; this limit is called a net debit cap.

[46] The average calculation only includes RMPs for which institutions required (additional) collateral.

avoid daylight overdrafts (if ineligible for intraday credit). These institutions might incur increased costs related to managing their Federal Reserve accounts under the proposed posting rules. Most of these institutions, however, would be able to take actions to avoid increased fees through posting (additional) collateral or holding higher balances, and interest on balances in Federal Reserve accounts would help compensate most institutions (91 percent) that choose to increase balances held overnight in their Federal Reserve accounts. Three institutions would be the most adversely affected as they are not eligible for intraday credit or interest on balances in Federal Reserve accounts. Ultimately, the Board believes that it is no longer appropriate to maintain posting rules that reflect outdated practices and do not strategically position the payment system for the future of faster clearing and settlement. The Board believes these changes are necessary for the long-run efficiency of the payment system.

Implementation of proposed posting rules for ACH debit and commercial check transactions

Adoption of an earlier posting time for ACH debit transactions and check transactions could be implemented relatively quickly by the Reserve Banks. The Board, however, understands that a small number of institutions might need to make account management changes to arrange for sufficient funding or to pledge (additional) collateral, if eligible. The Board proposes an effective date six months from the final rule to give institutions sufficient time to make any necessary changes.

Questions

In response to the Board's proposals to implement changes to the PSR policy related to the procedures for posting debit and credit entries for ACH debit and commercial check transactions, the Board requests comment on the collective benefits and drawbacks. In particular,

(1) Are there any additional costs as a result of the combined effect of the ACH debit and commercial check posting rule proposals that institutions would expect to incur in order to fund their Federal Reserve accounts by 8:30 a.m.?

(2) Are there any additional expected benefits from the combined effect of the ACH debit and commercial check posting rule proposals?

(3) What additional costs as a result of the combined effect of the ACH debit and commercial check posting rule proposals would institutions expect to incur if both ACH and commercial check transactions posted between 6:00 a.m. and 8:30 a.m.?

(4) Is six months sufficient lead time for implementation? If not, why not? What lead time would be needed if greater than six months? Alternatively, is less implementation time, such as three months, sufficient?

(5) Are there any additional posting rules in the PSR policy that would benefit from changes or that need clarification?

III. Other revisions to the PSR policy

Principles for future posting rules for the Reserve Banks' same-day ACH service

Advancements in technology and business processes will continue to enable improvements in the ACH system and institutions' back-end processing capabilities and infrastructures. The ACH system has already begun to see changes, albeit on a limited basis, in faster clearing and settlement. In 2010, the Reserve Banks began offering a limited, voluntary, same-day service for certain ACH debit transactions and recently expanded that service to allow for almost all credit and debit transaction types.[47] The Board expects that this service will evolve over time, with the potential establishment of additional processing cycles that require new posting times for settlement.[48]

The Board proposes to establish a set of principles that would be applied to any new same-day ACH posting rules. The Board does not contemplate that it would ordinarily request public comment on changes to the posting rules that conform to such principles, but would request comment should it consider implementing posting rules that deviate from the principles. Such principles would apply to the Reserve Banks' voluntary (opt-in), same-day ACH service and to any future same-day ACH service, such as a universal same-day ACH service that may be incorporated into NACHA rules.[49] These proposed principles, which would apply in addition to the current four posting-rules principles formulated in the 1990s, are as follows:[50]

1) For each same-day ACH transmission deadline, the Reserve Banks will establish expected distribution times for the same-day ACH files.

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[47] The Reserve Banks' service is voluntary in the sense that both the sending institution and the receiving institution must have "opted in" to the Reserve Banks' service in order for the Reserve Banks to treat an eligible ACH transaction as a same-day transaction. The same-day ACH service includes all types of ACH credit and debit transactions with the exception of international ACH transactions and certain check truncation transactions.

[48] The current processing schedule has a 2:00 p.m. deadline for submitting same-day, forward transactions for settlement at 5:00 p.m. Return transactions post at 5:30 p.m.

[49] NACHA is a not-for-profit association that manages the development, administration, and governance of the ACH network for participating depository institutions. In 2011, NACHA proposed amendments to its operating rules to enable ACH debit and credit transfers to be cleared and settled on the same day that they are originated. The expedited service would require the participation of all receiving institutions in the ACH network, going beyond the Reserve Banks' voluntary service. Although the majority of NACHA's voting members were in favor of the proposal, NACHA did not receive the 75 percent positive vote required for passage.

[50] These four posting-rule principles are outlined earlier in this notice.

a. The Reserve Banks will post settlement for same-day ACH debit transactions no earlier than 15 minutes after the Reserve Banks' expected distribution times for the associated same-day ACH file.

b. The Reserve Banks will post settlement for ACH credit and debit transactions associated with a particular same-day ACH file distribution time at the same time.

2) The Reserve Banks will not post settlement for same-day ACH transactions between 6:30 p.m. and 8:30 a.m. the next processing day.

3) The Reserve Banks will post settlement for same-day ACH transactions exchanged with another operator to support universal same-day ACH during the operating hours for the Reserve Banks' NSS.

The first principle is intended to ensure that institutions have sufficient time to view the amount settling in their Federal Reserve accounts for ACH debit transactions before their account is debited. The principle does not address ACH credit transactions because the originating depository financial institution, whose Federal Reserve account is debited, has full information about the amount and timing of settlement when they initiate the transaction. The principle would also ensure that credit and debit transactions post simultaneously, offsetting the liquidity needed to settle for those same-day ACH transactions.[51] This principle conforms to the Board's current measurement principles that posting rules should reflect the times at which payor institutions are obligated to pay for transfers.

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[51] Same-day ACH credit transactions have immediate finality consistent with the Reserve Banks' current treatment of ACH credit transfers. See section 11.2 of the Reserve Banks' Operating Circular 4, *Automated Clearing House Items*, available at www.frbservices.org/files/regulations/pdf/operating_circular_4_07122012.pdf.

The second principle requires that the same-day ACH posting rules fall within certain business hours, mitigating the potential burden of institutions, especially smaller, West Coast institutions, related to monitoring and funding their account balances outside of these hours. This principle is consistent with the Board's current principle that users of payment services should be able to control their use of intraday credit.

The third principle applies to a potential future state when multiple operators provide same-day ACH services and need to exchange items to support universal same-day ACH.[52] To ensure competitive equality between these operators, the private-sector operator(s) should have the ability to settle for same-day ACH transactions, using the Reserve Banks' NSS, at the same times the Reserve Banks post such transactions.[53] Because the Reserve Banks are the only provider of a same-day ACH service at this time, the principle is not currently applicable. If in the future the Reserve Banks exchanged same-day ACH transactions with a private-sector operator, the Reserve Banks' same-day ACH service would need to conform to the third principle by either modifying the posting rules to meet this requirement or expanding NSS's operating hours to incorporate the posting times for same-day ACH.[54] This principle conforms to the Board's current principle that Reserve Banks should not obtain a competitive advantage from the measurement procedures.

[52] The principle would not apply if a private-sector operator introduced a same-day ACH service where it did not intend the items to be exchanged with the Reserve Banks as another ACH operator.

[53] Currently, the Reserve Banks' NSS is used by EPN to settle intra-EPN transactions (i.e., ACH transactions that do not involve the Reserve Banks' FedACH service).

[54] The Reserve Banks currently settle same-day ACH return transactions at 5:30 p.m., which is a half-hour after the close of NSS's operating hours of 8:30 a.m. to 5:00 p.m.

The Board proposes that the principles for future posting rules for the Reserve Banks' same-day ACH service would be effective on final approval.

Questions

In response to the Board's proposals to implement principles for establishing future posting rules for the Reserve Banks' same-day ACH service, the Board requests comment on the proposed principles. In particular,

(1) Are there additional principles that the Board should consider?

(2) Are all the proposed principles necessary?

(3) Should the window between established distribution times and posting be standard for check, ACH debit transactions, and same-day ACH debit transactions? If so, should that standard be 15 minutes, 30 minutes, or some other time?

Language clarification in section II.G.3

The Board is requesting comment on a proposed language clarification in part II of the PSR policy regarding operational changes in the administration of the policy as it relates to U.S. branches and agencies of foreign banking organizations (FBOs). The new language clarifies that U.S. branches and agencies of the same foreign bank (also referred to as an FBO family) are expected to manage their accounts so that the daylight overdraft position in each account does not exceed the capacity allocated to this account from the FBO family's net debit cap.[55] An FBO family, unlike most domestic institutions, may have multiple master accounts across Reserve Bank Districts and may request that all or

[55] The previous language in the PSR policy that related to the administration of multiple master accounts was somewhat ambiguous and could have been interpreted to allow the Federal Reserve to administer these accounts as is the current practice (separate administration for the multiple master accounts) or the previous practice (consolidated administration).

part of its net debit cap be allocated across the Reserve Bank Districts. In the past, the Reserve Banks monitored the master accounts of FBO families on a consolidated basis rather than requiring an FBO family to allocate its net debit cap if it wanted to incur daylight overdrafts in more than one account across Reserve Bank Districts.

The impetus for this administration change stemmed from the 2011 revision to the PSR policy that allowed healthy institutions eligible for intraday credit to eliminate or reduce daylight overdraft fees through the voluntary pledge of collateral.[56] FBO families often only pledged collateral to one Reserve Bank, and state laws governing the resolution of foreign bank branches may limit (or "ring-fence") the assets of a branch located in that state, thereby increasing the risk that a Reserve Bank may not be able to rely on collateral held by another Reserve Bank. In 2012, the Reserve Banks changed their operational practices to address this risk such that an FBO family's master accounts are treated as separate accounts for the purposes of pricing and monitoring net debit cap compliance.[57]

The effective date for the proposed language change intended to clarify the Reserve Banks' administration of the policy for U.S. branches and agencies of FBOs would be effective on final approval.

[56] The fee for collateralized daylight overdrafts is zero because the collateral mitigates the Reserve Banks' exposure.

[57] As announced by the Reserve Banks in a February 2012 letter, effective April 19, 2012, the Reserve Banks would no longer consolidate the accounts of FBO families across Reserve Bank Districts for the purposes of pricing and ex-post monitoring of cap compliance.

IV. Competitive Impact Analysis

The Board conducts a competitive impact analysis when it considers a rule or policy change that may have a substantial effect on payment system participants, such as that being proposed for the posting of ACH debit and commercial check transactions. Specifically, the Board determines whether there would be a direct or material adverse effect on the ability of other service providers to compete with the Federal Reserve due to differing legal powers or due to the Federal Reserve's dominant market position deriving such legal differences.[58] The Board believes that there are no adverse effects resulting from the proposed changes due to legal differences.

Shifting the posting of ACH debit transactions to 8:30 a.m. would serve to bring the settlement of ACH debit transactions processed by the Reserve Banks' FedACH service in line with the private-sector operator and reduce any potential competitive disadvantage to the Reserve Banks. The proposed posting-rule change would benefit not only FedACH participants that originate debit transactions but also EPN customers that originate debit transactions sent to FedACH, which settle according to the Board's posting rules.

Under Regulation J, the Reserve Banks have the legal and operational ability to debit paying banks for paper presentments of checks earlier in the day than private-sector collecting banks and, in turn, can pass credits for deposited checks earlier in the day without incurring significant intraday float. To obtain settlement from paying banks for paper checks presented, Regulation J permits the Reserve Banks to debit directly the

[58] Federal Reserve Regulatory Service, 7-145.2.

account of the paying bank or its designated correspondent.[59] In contrast, a paying bank settles for checks presented by a private-sector bank for same-day settlement by sending a Fedwire Funds transaction to the presenting bank or by another agreed upon method.[60] In addition, the Reserve Banks have the right to debit the account of the paying bank for settlement of checks on the next clock hour that is at least one hour after presentment, whereas a private-sector collecting bank may not receive settlement until the close of Fedwire on the day of presentment.[61]

In March 1998, the Board requested comment on whether these legal differences between the Reserve Banks and the private sector provided the Reserve Banks with a competitive advantage. Most commenters acknowledged that the regulation governing the timing and settlement favor Reserve Banks over private-sector collecting banks. None of the commenters, however, suggested an alternative that eliminated the disparity while maintaining a balance between the needs of both the paying bank and collecting banks to control some part of the settlement process.[62]

Additionally, under Regulation J, Reserve Banks can obtain same-day settlement for checks presented to a paying bank before the paying bank's cutoff hour, generally 2:00 p.m. local time or later.[63] The same-day settlement rule for private-sector banks, however, requires that they make their presentments by 8:00 a.m. local time to ensure that they receive same-day settlement by Fedwire Funds without being assessed

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[59] 12 CFR 210.9(b)(5).

[60] 12 CFR 229.36(f)(2).

[61] 12 CFR 210.9(b)(2); 12 CFR 229.36(f)(2).

[62] The request for comment and the subsequent notice of the Board's decision can be found, respectively, at 63 FR 12700 (March 16, 1998) and 63 FR 68701 (December 14, 1998).

[63] 12 CFR 210.9(b)(1).

presentment fees. In March 1998, the Board also requested comment on the effect of the difference in presentment deadlines for Reserve Banks and private-sector banks. Most commenters did not believe that the six-hour difference in presentment deadlines was a significant impediment to the ability of private-sector banks to compete with the Reserve Banks.

Based on the analysis of the comments received, the Board concluded then and continues to believe that these legal disparities do not materially affect the efficiency of or competition in the check collection system. The costs to paying banks and their customers associated with reducing any remaining legal disparities would outweigh any payment system efficiency gains.

In addition, the Check 21 Act, by authorizing the creation of substitute checks, enabled banks to send checks electronically, rather than in paper form, to banks with which they have agreements to do so, and the vast majority of check activity is cleared electronically today. As a result, banks may determine, as part of the agreement between a depositary and paying bank, the time at which settlement for checks is required to be funded as well as the presentment deadlines. Furthermore, for depositary and paying banks that opt to use a check clearinghouse rather than directly exchange paper or electronic checks, private-sector clearinghouses have the option to use NSS to effect settlement of checks or may settle by directing their members to initiate funds transfers over the Reserve Banks' Fedwire Funds Service. NSS's operating hours extend from 8:30 a.m. to 5:00 p.m., while Fedwire Funds operating hours begin at 9:00 p.m. the previous calendar day and end at 6:30 p.m. The Reserve Banks today settle commercial check transactions (including corrections and adjustments) from 11:00 a.m. to 6:30 p.m.

From a payment system risk perspective, the Board has traditionally encouraged the use of NSS for multilateral settlement arrangements and is seeking comment on whether the Reserve Banks should consider extending NSS hours to accommodate a specific later settlement time by private-sector clearinghouses.

Under the proposed posting rules, the bulk of the Reserve Banks' postings of credits to depositing banks and debits to paying banks for commercial check transactions may shift to earlier in the day. Depending on the number of checks a bank sends to the Reserve Banks and that it receives from the Reserve Banks, the bank may receive either a "net credit" or a "net debit" earlier in the day. As a result, the earlier posting of commercial check transactions may be viewed as more or less attractive, depending on changes to balances. Further, private-sector banks can achieve improvements similar to those provided by the proposed changes through private agreements among participants, as well as the use of the NSS.

Given the factors discussed above, the Board does not believe that the proposed changes to the posting rules would have any direct adverse effect on other service providers to compete effectively with Reserve Banks in providing similar services.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320 appendix A.1), the Board reviewed the PSR policy changes it is considering under the authority delegated to the Board by the Office of Management and Budget. No collection of information pursuant to the Paperwork Reduction Act are contained in the policy statement.

VI. Federal Reserve Policy on Payment System Risk

Changes to the posting rules

If the Board adopts the proposed posting changes for ACH debit and commercial check transactions, it would amend the "Federal Reserve Policy on Payment System Risk" section II.A. under the subheading "Procedures for Measuring Daylight Overdrafts" as follows in italics.[64]

Procedures for measuring daylight overdrafts[65]

Post at 8:30 a.m. Eastern time:

+/- Term deposit maturities and accrued interest

+/- *Government and commercial ACH transactions*[66]

+/- *Commercial check transactions, including returned checks*[67]

\+ Treasury checks, postal money orders, local Federal Reserve Bank checks, and savings bond redemptions in separately sorted deposits; these items must be deposited by 12:01 a.m. local time or the local

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[64] In addition to the italicized changes to the "Post After the Close of Fedwire Funds Service" posting rule, the list of transactions posted at that time has been reordered.

[65] This schedule of posting rules does not affect the overdraft restrictions and overdraft-measurement provisions for nonbank banks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR § 225.52).

[66] Institutions that are monitored in real time must fund the total amount of their commercial ACH credit originations in order for the transactions to be processed. If the Federal Reserve receives commercial ACH credit transactions from institutions monitored in real time after the scheduled close of the Fedwire Funds Service, these transactions will be processed at 12:30 a.m. the next business day, or by the ACH deposit deadline, whichever is earlier. The Account Balance Monitoring System provides intraday account information to the Reserve Banks and institutions and is used primarily to give authorized Reserve Bank personnel a mechanism to control and monitor account activity for selected institutions. For more information on ACH transaction processing, refer to the ACH Settlement Day Finality Guide available through the Federal Reserve Financial Services website at http://www.frbservices.org.

[67] For the three commercial check transaction posting times, the Reserve Banks will post credits and debits to institutions' accounts for checks deposited and presented, respectively, at least 30 minutes before the posting time.

deposit deadline, whichever is later

\+ Advance-notice Treasury investments

\- Penalty assessments for tax payments from the Treasury Investment Program (TIP).[68]

Post at 8:30 a.m. Eastern time and hourly, on the half-hour, thereafter:

+/- Main account administrative investment or withdrawal from TIP

+/- Special Direct Investment (SDI) administrative investment or withdrawal from TIP

\+ 31 CFR Part 202 account deposits from TIP

\+ *Credit corrections amounting to $1 million or more*[69]

\+ *Credit adjustments amounting to $1 million or more*[70]

\- Uninvested paper tax (PATAX) deposits from TIP

\- Main account balance limit withdrawals from TIP

\- Collateral deficiency withdrawals from TIP

\- 31 CFR Part 202 deficiency withdrawals from TIP

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[68] The Reserve Banks will identify and notify institutions with Treasury-authorized penalties on Thursdays. In the event that Thursday is a holiday, the Reserve Banks will identify and notify institutions with Treasury-authorized penalties on the following business day. Penalties will then be posted on the business day following notification.

[69] Corrections are account entries made to correct discrepancies detected by a Reserve Bank during the initial processing of checks.

[70] Adjustments are account entries made to correct discrepancies detected by an institution after entries have posted to its account and are made at the request of the institution.

Post by 1:00 p.m. Eastern time:

+/- *Commercial check transactions, including returned checks*

\+ Same-day Treasury investments.

Post at 5:30 p.m. Eastern time:

+/- FedACH SameDay Service return transactions.

+/- *Commercial check transactions, including returned checks*

Post After the Close of Fedwire Funds Service:

+/- All other transactions. These transactions include the following: *currency and coin shipments; noncash collection; term-deposit settlements*; Federal Reserve Bank checks presented after 3:00 p.m. Eastern time but before 3:00 p.m. local time; *foreign check transactions*; small-dollar credit adjustments; and all debit adjustments *and corrections*. Discount-window loans and repayments are normally posted after the close of Fedwire as well; however, in unusual circumstances a discount window loan may be posted earlier in the day with repayment 24 hours later, or a loan may be repaid before it would otherwise become due.

Revisions to section II.G.3 of the PSR policy

The Board proposes to revise section II.G.3 of the Federal Reserve Policy on Payment System Risk as follows:

3. Multi-District institutions

An institution maintaining merger-transition accounts or an Edge or agreement corporation that accesses Fedwire through master accounts in more than one Federal Reserve District is expected to manage its accounts so that the total daylight overdraft position across all accounts does not exceed the institution's net debit cap. One Reserve Bank will act as the administrative Reserve Bank and will have overall risk-management responsibilities for an institution maintaining master accounts in more than one Federal Reserve District. For domestic institutions that have branches in multiple Federal Reserve Districts, the administrative Reserve Bank generally will be the Reserve Bank where the head office of the bank is located.

U.S. branches and agencies of the same foreign bank (also referred to as an FBO family) are assigned one net debit cap per FBO family. FBO families that access Fedwire through master accounts in more than one Federal Reserve District are expected to manage their accounts so that the daylight overdraft position in each account does not exceed the capacity allocated to this account from the FBO family's net debit cap. The administrative Reserve Bank generally is the Reserve Bank that exercises the Federal Reserve's oversight responsibilities under the International Banking Act.[71] *The administrative Reserve Bank, in consultation with the management*

[71] 12 U.S.C. 3101–3108.

of the foreign bank's U.S. operations and with Reserve Banks in whose territory other U.S. agencies or branches of the same foreign bank are located, may recommend that these agencies and branches not be permitted to incur overdrafts in Federal Reserve accounts. Alternatively, the administrative Reserve Bank, after similar consultation, may recommend that all or part of the foreign family's net debit cap be allocated to the Federal Reserve accounts of agencies or branches that are located outside of the administrative Reserve Bank's District; in this case, the Reserve Bank in whose Districts those agencies or branches are located will be responsible for administering all or part of this policy.[72]

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By order of the Board of Governors of the Federal Reserve System, November 25, 2013.

Robert deV. Frierson,
Secretary of the Board.

[72] As in the case of Edge and agreement corporations and their branches, with the approval of the designated administrative Reserve Bank, a second Reserve Bank may assume the responsibility for administering this policy regarding particular foreign branch and agency families. This would often be the case when the payments activity and national administrative office of the foreign branch and agency family is located in one District, while the oversight responsibility under the International Banking Act is in another District. If a second Reserve Bank assumes management responsibility, monitoring data will be forwarded to the designated administrator for use in the supervisory process.

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